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December 29, 2009

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Office of Proceedings

DEC 29 2009

Part of
Public Record

BY HAND DELIVERY

Cynthia T. Brown
Chief of the Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: STB Finance Docket No. 35341
*Pioneer Industrial Railway Co. – Trackage Rights Exemption – Central Illinois
Railway Company*

Dear Ms. Brown:

Enclosed for filing in the above-captioned proceeding are an original and 11 copies of the Notice of Exemption of Pioneer Industrial Railway Co. ("PIRY") to acquire trackage rights, pursuant to 49 CFR 1180.2(d)(7). A check in the amount of \$1,200.00 is enclosed to cover the cost of processing the Notice.

Please acknowledge receipt of this filing by date-stamping the enclosed acknowledgment copy (the eleventh copy) and returning it to our courier for delivery back to me. If there are any questions about this matter, please contact me directly, either by telephone: (202) 663-7823 or by email: wmullins@bakerandmiller.com.

Very truly yours,



William A. Mullins

Enclosures

cc: Daniel A. LaKemper
Michael R. Ascher

FILED

DEC 29 2009

**SURFACE
TRANSPORTATION BOARD**

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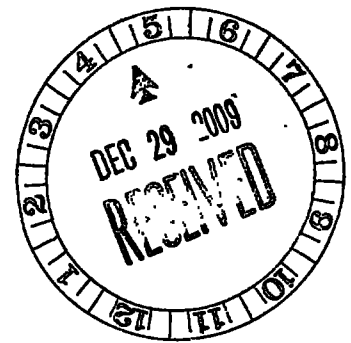
**SURFACE
TRANSPORTATION BOARD**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35341

**PIONEER INDUSTRIAL RAILWAY CO.
- TRACKAGE RIGHTS EXEMPTION -
CENTRAL ILLINOIS RAILWAY COMPANY**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR 1180.2(d)(7)**



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**Attorney for Pioneer Industrial
Railway Co.**

Dated: December 29, 2009

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35341

**PIONEER INDUSTRIAL RAILWAY CO.
– TRACKAGE RIGHTS EXEMPTION –
CENTRAL ILLINOIS RAILWAY COMPANY**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR 1180.2(d)(7)**

Pioneer Industrial Railway Co. (hereinafter referred to as “PIRY” or “User”) hereby submits this Verified Notice of Exemption (“Notice”), pursuant to 49 CFR 1180.2(d)(7), from the prior approval and authorization requirements of 49 USC 11323 to permit PIRY to implement operations pursuant to local trackage rights over approximately 4.81 miles of rail line leased and operated by Central Illinois Railway Company (“CIRY” or “Grantor”). In support of this Notice and in compliance with 49 CFR 1180.4(g), PIRY provides the following information:

Description of the proposed transaction: 49 CFR 1180.6(a)(1)(i)

Pursuant to an agreement with the owners of the Kellar Branch – the City of Peoria, IL, and the Village of Peoria Heights, IL (collectively, the “Cities”), PIRY currently operates over an 8.29-mile line of railroad known as the Kellar Branch, extending between milepost 1.71 (at a connection with a line operated by the Tazewell & Peoria Railroad, Inc. – “TZPR”) and milepost 10.0 (the northern end of the Kellar Branch). CIRY also possesses operating rights over the Kellar Branch pursuant to a separate lease agreement with the Cities.¹ The Cities have long

¹ See Central Illinois Railroad Company—Operation Exemption—Rail Line of the City of Peoria and the Village of Peoria Heights in Peoria and Peoria Heights, Peoria County, IL, STB

hoped to convert the majority of the Kellar Branch, including all of that line which passes through the Village of Peoria Heights, into a recreational trail. Recently, the Cities, CIRY, PIRY, and the remaining two shippers on the Kellar Branch – Carver Lumber Company (“Carver”) and O’Brien Steel Service Co. (“O’Brien”) – reached an accord pursuant to which CIRY and PIRY will seek Board authority to discontinue their respective operations over the portion of the Kellar Branch between milepost 2.78 and milepost 8.50 (the “Middle Segment”),² so that the Cities may move forward with plans to convert that portion of the Kellar Branch into a recreational trail.

Under this arrangement, PIRY and CIRY will continue to provide service over the remaining portions of the Kellar Branch (the 1.07-mile “Southern Segment” between milepost

Finance Docket No. 34518 (STB served July 28, 2004).

In addition, PIRY understands that CIRY possesses leasehold rights to operate over an additional 1.9 miles of rail line known as the Pioneer Industrial Lead (from milepost 71.5, to the end of track, a short distance west of University Avenue in the City of Peoria, IL) and 1,800 feet of track that the City of Peoria constructed to connect the western end of the Kellar Branch to the Pioneer Industrial Lead. (The Pioneer Industrial Lead and the 1,800 foot connecting track, both of which are owned by the City of Peoria, will be referred to collectively the “Western Connection.”) The Western Connection establishes a rail link between the northern segment end of the Kellar Branch and a main line route of the Union Pacific Railroad Company (“UP”). See City of Peoria and The Village of Peoria Heights, IL – Adverse Discontinuance – Pioneer Industrial Railway Company, STB Docket No. AB-878 (STB served Nov. 19, 2007), slip op. at 2 (providing a brief but useful discussion of the Western Connection and its relationship to the Kellar Branch); City of Peoria, IL, d/b/a Peoria Heights & Western Railroad—Construction of Connecting Track Exemption—in Peoria County, IL, STB Finance Docket No. 34395 (STB served Feb. 23, 2004, and Sept. 27, 2004) (covering the construction of the 1,800 foot connecting track); City of Peoria, IL—Acquisition and Operation Exemption—Union Pacific Railroad Company, STB Finance Docket No. 34066 (STB served July 25, 2001) (covering the City of Peoria’s acquisition of the Pioneer Industrial Lead).

² Because PIRY is acquiring local trackage rights over the portions of the Kellar Branch that will remain (thus preserving its ability to provide competitive common carrier service over the remaining two line segments), PIRY is, concurrent with the filing of this notice, filing, along with CIRY, a joint petition for exemption seeking discontinuance authority for both CIRY and PIRY to discontinue their respective operating rights over the Middle Segment and for PIRY to discontinue its leasehold operations over the entire Kellar Branch.

1.71 milepost 2.78, and the 1.5-mile “Northern Segment” between milepost 8.50 and milepost 10.0 – collectively, the “Kellar Remnants”). CIRY will serve as the primary operator of the Western Connection and the Kellar Remnants pursuant to its lease agreement(s) with the City of Peoria. PIRY, on the other hand, will relinquish its leasehold interest in the entire Kellar Branch concurrently with PIRY’s and CIRY’s discontinuances of service over the Middle Segment in exchange for CIRY’s grant of local trackage rights over the Kellar Remnants, so that PIRY can provide common carrier service on the remaining portions of the Kellar Branch. CIRY will also convey local trackage rights to PIRY over the Kellar Remnants and the Western Connection. The CIRY-to-PIRY trackage rights conveyances over the Kellar Remnants and the Western Connection – which conveyances the City of Peoria, as the owner of these lines, has agreed to – are the subject of this Notice of Exemption.

In short, CIRY will convey to PIRY local trackage rights over the following lines (a total of approximately 4.81 miles): (1) the Southern Segment of the Kellar Branch, between milepost 1.71 and milepost 2.78; (2) the Northern Segment of the Kellar Branch between milepost 8.50 and milepost 10.0; and (3) the Western Connection between milepost 71.5, to the end of track (a short distance west of University Avenue), and including the 1,800 foot connecting track linking the end of the Pioneer Industrial Lead with the Western Segment.

Shippers located along the Western Segment (at this time, Carver) will receive PIRY and CIRY service via the Western Connection, which provides for direct interchange with line-haul carrier UP. Shippers located along the Southern Segment (at this time, O’Brien) will obtain access to line haul service via a CIRY and PIRY connection with TZPR. Both Carver and O’Brien have been consulted in the course of this proposed transaction and have been advised as to the operating changes that will result. Both have consented to the proposal.

The full name and address of the applicant carrier is as follows:

Pioneer Industrial Railway Co.
1318 S. Johanson Road
Peoria, IL 61607
Tel: (309) 697-1400

The representative of PIRY to receive correspondence in this matter is:

William A. Mullins
Baker & Miller, PLLC
2401 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7823
Fax: (202) 663-7849

Proposed Time Schedule For Consummation: 49 CFR 1180.6(a)(1)(ii)

PIRY anticipates that the proposed transaction will be consummated on or about January 28, 2010.

Purpose Sought to be Accomplished: 49 CFR 1180.6(a)(1)(iii)

The purpose for the trackage rights transaction is to – (1) facilitate the possible conversion of the Middle Segment of the Kellar Branch to a recreational trail; (2) re-structure the relationships among PIRY, CIRY, and the City of Peoria, so that PIRY and the City of Peoria will no longer have a direct landlord-tenant relationship pursuant to a lease agreement; and (3) permit PIRY to continue to provide common carrier service, via local trackage rights, to shippers that are located on, and may in the future locate on, the Kellar Remnants and the Western Connection. As indicated, the subject rights permit PIRY to provide local service over all of the listed rail lines.

States in Which Applicant's Property is Located: 49 CFR 1180.6(a)(5)

PIRY operates rail property located in the State of Illinois.

Grantor CIRY operates rail property located in the State of Illinois.

Map - Exhibit 1: 49 CFR 1180.6(a)(6)

A map of the rail lines over which PIRY proposes to acquire trackage rights is attached hereto as Exhibit 1.

Agreement – Exhibit 2: 49 CFR 1180.6(a)(7)(ii)

A partially redacted copy of the trackage rights agreement is attached as Exhibit 2.

Labor Protection: 49 CFR 1180.4(g)(i)

The proposed transaction will result in a modification of the rights pursuant to which PIRY operates over the subject lines (i.e., a shift from a leasehold tenancy to that of a trackage rights tenancy), but it will not modify the fundamental service status quo on these lines, because PIRY will, like CIRY, have a common carrier obligation to serve shippers on the Kellar Remnants and the Western Connection. Nevertheless, PIRY anticipates that any employees that could be adversely affected by this transaction will be afforded the level of protection set forth in Norfolk and Western Ry. Co. – Trackage Rights – BN, 354 I.C.C 605 (1978), as modified in Mendocino Coast Ry., Inc. – Lease and Operate, 360 I.C.C 653 (1980).

Caption Summary: 49 CFR 1180.4(g)(2)(i)

In accordance with 1180.4(g)(2)(i), a caption summary suitable for publication in the Federal Register is attached to this Notice of Exemption as Exhibit 3.

Environmental and historic reporting requirements: 49 CFR 1180.4(g)(3)

The proposed trackage rights will not result in any significant changes in PIRY's operations and thus environmental documentation does not need to be prepared in accordance with 49 CFR 1105.(6)(c)(4). In addition, because PIRY's exercise of the subject trackage rights will not have a substantial, adverse effect on the level of maintenance performed on the lines, an historic report is not required for this filing. 49 CFR 1105.8(b)(3).

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'William A. Mullins', with a long horizontal flourish extending to the right.


William A. Mullins
Robert A. Wimbish
BAKER & MILLER PLLC
2401 Pennsylvania Ave., NW
Suite 300
Washington, DC 20037
Tel: (202) 663-7823
Fax: (202) 663-7849

Attorney for Pioneer Industrial
Railway Co.

Dated: December 29, 2009

VERIFICATION

I, J. Michael Carr, President, Chief Executive Officer, and Chief Financial Officer of Pioneer Industrial Railway Co., declare under the penalty of perjury that to the best of my knowledge the foregoing trackage rights notice of exemption is true and correct. Further, I certify that I am qualified to file this Verified Statement. Executed this 28th day of December, 2009.



J. Michael Carr

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

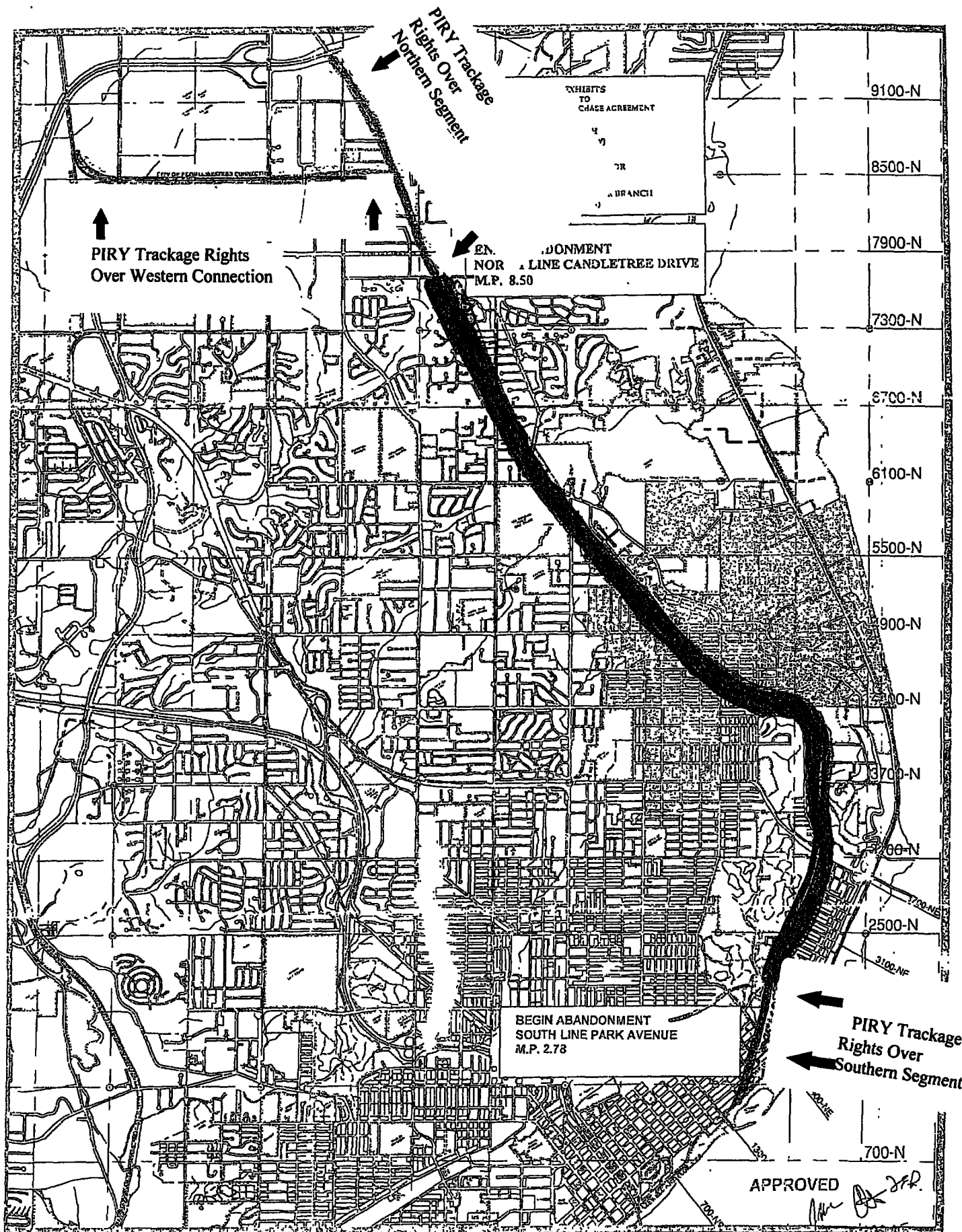
FINANCE DOCKET NO. 35341

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– TRACKAGE RIGHTS EXEMPTION –
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**VERIFIED NOTICE OF EXEMPTION
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EXHIBIT 1

MAP



**BEFORE THE
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EXHIBIT 2

PARTIALLY REDACTED TRACKAGE RIGHTS AGREEMENT

RAIL OPERATING AND TRACKAGE RIGHTS AGREEMENT

KELLAR BRANCH AND WESTERN CONNECTION PEORIA COUNTY, ILLINOIS

THIS TRACKAGE RIGHTS AGREEMENT ("Agreement" or "Trackage Rights Agreement") is made this 21st day of MAY, 2009 by and between Central Illinois Railroad Company (hereinafter "CIRY"), an Illinois corporation; Pioneer Industrial Railway Co. (hereinafter "PRY"), an Iowa corporation, and the City of Peoria, Illinois ("Peoria"). Each of CIRY, PRY and Peoria is a "Party", and collectively they are referred to as the "Parties".

WITNESSETH:

WHEREAS, CIRY and PRY currently operate, as common carriers, a rail line formerly known as the Kellar Branch of the Chicago, Rock Island & Pacific Railroad Company, and CIRY also operates, as a common carrier, the former Pioneer Park Industrial Lead of the Chicago & North Western Railway (later Union Pacific Railroad), along with a connecting track between the two (the latter segment commonly referred to collectively as the "Western Connection"), all being in Peoria County, Illinois; and

WHEREAS, under certain agreements between CIRY, PRY, the Kellar Branch Corridor Corporation and Peoria, the segment of the Kellar Branch between milepost 8.50 and milepost 2.78 will be abandoned and CIRY and PRY will be left with two separate segments, one being the South Line (defined below) and the other being the North Line (defined below); and

WHEREAS, Peoria desires to grant CIRY the right to operate a common carrier railroad over the North Line; and the South Line; and

WHEREAS, CIRY desires to grant trackage rights to PRY over the North Line and the South Line, on the terms and conditions provided for herein set forth; and

WHEREAS, PRY and CIRY desire to enter into an agreement setting forth their respective rights on the North Line and the South Line on an on-going basis.

NOW, THEREFORE, in consideration of these premises and other good and valuable consideration, the parties agree as follows:

Section 1. THE LINES

Attached hereto, marked Exhibit "A" and by this reference incorporated herein, is a map which depicts the lines over which CIRY is granted permanent assignable operating rights by Peoria, and PRY is granted permanent trackage rights by CIRY over the North Line and the South Line (as defined in Section 2).

Section 2. DEFINITIONS

2.1 "AAR" shall mean the Association of American Railroads, or any successor entity performing substantially the same functions.

2.2 "Affiliates" shall mean a Party's parent(s), subsidiaries, and affiliated entities, and their respective officers, directors, employees, agents, successors and permitted assigns.

2.3 "Car" shall mean one (1) railcar; provided, however, that each platform in an articulated rail car of two (2) or more platforms shall be counted as one (1) railcar.

2.4 "Carver Lumber" shall mean Carver Lumber Company (which is an existing on-line customer on the North Line), and its successors.

2.5 "Changes in and/or Additions to" shall mean work projects and retirements, the cost of which is chargeable in whole or in part to Property Accounts as defined by Uniform System of Accounts for Railroad Companies as prescribed by the STB as of the effective date of the Agreement.

2.6 "Employee(s)" of a party shall mean all officers, directors, agents, employees and contractors and employees of contractors of that party.

2.7 "Equipment" shall mean trains, locomotives, railcars (loaded or empty), cabooses, machinery or vehicles that are capable of being operated on railroad tracks, or on right-of-way for purpose of the maintenance or repair of such railroad tracks, or machinery or motor vehicles owned, leased or being used by a Party to this Agreement.

2.8 "FRA" shall mean the Federal Railroad Administration, or any entity that assumes the regulatory functions of the FRA for any government having sovereignty over Peoria, Illinois.

2.9 "North Line" shall mean the Kellar Branch trackage between milepost 8.50 north to the end of the Kellar Branch, along with the Western Connection between the Kellar Branch and the interchange with Union Pacific Railroad ("UP") at a point known as Pioneer Junction, including necessary right-of-way and all appurtenances, bridges, culverts, signals, communications, and support facilities, and all Changes in and/or Additions to such structures and facilities now or in the future located as are required or desirable for the operation of the Equipment of the parties hereto.

2.10 "South Line" shall mean the Kellar Branch trackage between the beginning of the Kellar Branch at its intersection with the Tazewell and Peoria Railroad and milepost 2.78, including the necessary right of way and all appurtenances, bridges, culverts, signals, communications, and support facilities, and all Changes in and/or Additions to such structures and facilities now or in the future located as are required or desireable for the operation of the Equipment of the parties hereto.

2.11 "STB" shall mean the Surface Transportation Board of the United States of America, or any entity that assumes the regulatory functions of the STB for any government

having sovereignty over Peoria, Illinois.

2.12 "Train" shall mean a locomotive, with or without Cars.

Section 3. GRANT TO CIRY

Peoria hereby grants to CIRY the permanent right to operate its Equipment over the North Line and the South Line, as described in Section 2 herein. CIRY shall pay Peoria the sum of [REDACTED] per year for said easement.

Section 4. GRANT TO PRY

CIRY hereby grants to PRY the permanent right to operate its Equipment (in PRY's account) over the North Line and the South Line, in common with CIRY, it being understood and agreed that PRY shall have the right to serve any existing or future customer, in accordance with this Agreement; provided, however, that PRY and CIRY shall consult and agree on the manner of providing such service, so as to minimize any effect such service may have on CIRY's then current operations or storage business on the North Line or the South Line. Peoria irrevocably consents to said grant. PRY shall pay CIRY a yearly fee of [REDACTED] for said trackage rights. All costs, liabilities and expenses shall be allocated as provided herein.

Section 5. MAINTENANCE OF NORTH LINE

5.1 PRY, at its expense, shall be responsible for all repair and maintenance, including all track, bridges, signals, crossing protection devices; and all inspections, including track, bridge, and signals; brush and weed control; drainage; any other maintenance and inspection requirements imposed by any regulatory authority having jurisdiction; and all utility expenses relating to any or all of the foregoing repair and maintenance obligations. In fulfilling these responsibilities, PRY shall be bound to use reasonable and customary care, skill and diligence in any construction, operation, maintenance, repair, or renewal activities. PRY shall make commercially reasonable efforts to ensure that CIRY is given reasonable advance notice of maintenance plans and schedules with respect to the North Line, and such are coordinated to minimize interference with CIRY's Trains. PRY shall retain all Federal Railroad Administration reporting requirements covering the North Line, and its common carrier obligations for the North Line.

5.2 PRY shall maintain the North Line to a condition substantially the same, or better, than that it was on the date of this Agreement. CIRY shall have the right, but not the obligation, to replace any ties, rails, or other track material it deems necessary or desirable, provided it does so with material of equal or greater utility. CIRY shall have the right to the salvage from any material so replaced. PRY shall not replace any material installed by CIRY, unless it does so with material of equal or greater utility. In the event that any part or all of the North Line, including but not limited to, active crossing signals, requires substantial reconstruction,

rebuilding, or restoration, the Parties shall cooperate to obtain such State and Federal funding as may be available, and any railroad share of the costs and expenses shall be paid by PIRY, unless otherwise agreed between the parties.

5.3 PRY, from time to time, may make such Changes in and/or Additions to the North Line as shall be required by any law, rule, regulation or ordinance promulgated by any government body having jurisdiction, or as PRY, in its sole discretion, shall deem necessary. Such Changes in and/or Additions to the North Line shall become a part of the North Line or in the case of retirements shall be excluded from the North Line. PRY shall make no retirement, withdrawal, elimination or disposal of any part of the North Line without the prior written approval of CIRY and Peoria.

5.4 Peoria acknowledges that, upon the effective date of this Agreement, it will no longer have any present possessory interest in the North Line. Peoria will not enter upon or cross the North Line (including the surrounding right of way), or permit third parties to do so, except at open public crossings. The Parties agree that anyone who enters upon the North Line (including the surrounding right of way) who is not authorized by CIRY or PRY shall be deemed a trespasser. Except as provided in Section 5.5, Peoria shall have no obligation to maintain the right of way so long as this Agreement is in force.

5.5 This Agreement is granted and accepted by CIRY and PRY subject to those presently existing street and highway crossings. Peoria agrees, however, that CIRY and PRY are under no obligation to grant any additional crossings. Peoria shall, under this Agreement, retain the responsibility for maintenance of all highway and street crossings (excluding only rail, ties and active signal devices) that it assumed in Section 4(d) of the agreement between Peoria and the Peoria & Pekin Union Railway Company ("P&PU") dated July 10, 1984, which PRY is the successor in interest to P&PU under. CIRY, PRY and Peoria shall also cooperate in obtaining such state, federal, and other funding as may be available from time to time to assist with the maintenance (including any needed rehabilitation or rebuilding) of such crossings, and the signals and warning devices attendant thereto.

5.6 Each party agrees to indemnify and hold the other party harmless from and against losses or damages related to the liability that such party agrees to assume hereunder.

Section 6. MAINTENANCE OF THE SOUTH LINE

6.1 CIRY, at its expense, shall be responsible for all repair and maintenance, including all track, bridges, signals, crossing protection devices; and all inspections, including track, bridge, and signals; brush and weed control; drainage; any other maintenance and inspection requirements imposed by any regulatory authority having jurisdiction; and all utility expenses relating to any or all of the foregoing repair and maintenance obligations. In fulfilling these responsibilities, CIRY shall be bound to use reasonable and customary care, skill and diligence in any construction, operation, maintenance, repair, or renewal activities. CIRY shall make commercially reasonable efforts to ensure that PRY is given reasonable advance notice of maintenance plans and schedules with respect to the South Line, and such are coordinated to minimize interference with PRY's Trains. CIRY shall have all Federal Railroad Administration

reporting requirements covering the South Line.

6.2 CIRY shall maintain the South Line to a condition substantially the same, or better, than that it was on the date of this Agreement. PRY shall have the right, but not the obligation, to replace any ties, rails, or other track material it deems necessary or desirable, provided it does so with material of equal or greater utility. PRY shall have the right to the salvage from any material so replaced. CIRY shall not replace any material installed by PRY, unless it does so with material of equal or greater utility. In the event that any part or all of the South Line, including but not limited to, active crossing signals, requires substantial reconstruction, rebuilding, or restoration, the Parties shall cooperate to obtain such State and Federal funding as may be available, and any railroad share of the costs and expenses shall be paid by CIRY, unless otherwise agreed between the Parties.

6.3 CIRY, from time to time, may make such Changes in and/or Additions to the South Line as shall be required by any law, rule, regulation or ordinance promulgated by any government body having jurisdiction, or as CIRY, in its sole discretion, shall deem necessary. Such Changes in and/or Additions to the South Line shall become a part of the South Line or in the case of retirements shall be excluded from the South Line. CIRY shall make no retirement, withdrawal, elimination or disposal of any part of the South Line without the prior written approval of PRY and Peoria.

6.4 Peoria acknowledges that, upon the effective date of this Agreement, it will no longer have any present possessory interest in the South Line. Peoria will not enter upon or cross the South Line (including the surrounding right of way), or permit third parties to do so, except at open public crossings. The Parties agree that anyone who enters upon the South Line (including the surrounding right of way) who is not authorized by CIRY or PRY shall be deemed a trespasser. Except as provided in Section 6.5, Peoria shall have no obligation to maintain the right of way so long as this Agreement is in force.

6.5 This Agreement is granted and accepted by CIRY and PRY subject to those presently existing street and highway crossings. Peoria agrees, however, that CIRY and PRY are under no obligation to grant any additional crossings. Peoria shall, under this Agreement, retain the responsibility for maintenance of all highway and street crossings (excluding only rail, ties and active signal devices) that it assumed in Section 4(d) of the agreement between Peoria and the Peoria & Pekin Union Railway Company ("P&PU") dated July 10, 1984, which PRY is the successor in interest to P&PU under. CIRY, PRY and Peoria shall also cooperate in obtaining such state, federal, and other funding as may be available from time to time to assist with the maintenance (including any needed rehabilitation or rebuilding) of such crossings, and the signals and warning devices attendant thereto.

6.6 CIRY shall have the right to use the PRY's runaround track near O'Brien Steel, for any purpose. CIRY shall pay PRY a yearly fee of [REDACTED] for such right. PRY may, in its sole discretion, remove such track at any time.

6.7 Each party agrees to indemnify and hold the other party harmless from and against losses or damages related to the liability that such party agrees to assume hereunder.

Section 7. TAXES

The Parties believe that the North Line and the South Line are exempt from real estate and similar taxes. In the event any entity assesses any such tax, Peoria shall pay such taxes, promptly upon notice.

Section 8. INSURANCE

8.1 PRY shall obtain and maintain the following insurance coverage:

A. Railroad liability insurance, including Federal Employers' Liability Act coverage, covering its operations on the North Line and the South Line, naming CIRY and the City of Peoria as additional insureds, with limits of not less than [REDACTED] combined single limits for bodily injury and property damage on the premises and operations covered by this Agreement.

B. Auto liability insurance with combined single limits of not less than [REDACTED] per occurrence for bodily injury and property damage. Such insurance shall provide coverage for owned, non-owned and hired vehicles.

8.2 CIRY shall obtain and maintain the following insurance coverage:

A. Railroad liability insurance, including Federal Employers' Liability Act coverage, covering its operations on the North Line and the South Line, naming PRY and the City of Peoria as additional insureds, with limits of not less than [REDACTED] combined single limits for bodily injury and property damage on the premises and operations covered by this Agreement.

B. Auto liability insurance with combined single limits of not less than [REDACTED] per occurrence for bodily injury and property damage. Such insurance shall provide coverage for owned, non-owned and hired vehicles

8.3 All policies shall be endorsed to cover the contractual obligation under the indemnity provisions of this Agreement.

Section 9. EFFECTIVE DATE

This Agreement shall become effective upon the date operations are authorized by consent, approval or authority from the Surface Transportation Board (or, if earlier, the discontinuance of service over the Kellar Branch as approved by the Surface Transportation Board).

Section 10. OPERATION AND CONTROL

10.1 Trains. Each party shall be responsible for furnishing, at its sole cost and expense, all labor, fuel and other supplies necessary for the operation of its own Equipment over the North Line and the South Line. In the event a party does furnish such labor, fuel or train and other supplies to another party, the party receiving the same shall promptly, upon receipt of billing therefore, reimburse the party furnishing the same for its reasonable costs thereof.

10.2 Interchange. PRY shall be responsible for the reporting and payment of any mileage, per diem, use, or rental charges accruing on Equipment in PRY's account. CIRY shall be responsible for the reporting and payment of any mileage, per diem, use, or rental charges accruing on Equipment in CIRY's account. Except as specifically provided in this Agreement, PRY and CIRY may enter into interchange agreements with other carriers under such terms as they may deem appropriate.

10.3 Joint Operation. Before using any part of the North Line or South Line that is being operated by both CIRY and PRY, the Party seeking to use the Trackage shall telephone the other at such telephone numbers as they may from time to time provide, and state when and where their Train will be operating. Priority of operation shall be given to Trains serving on-line customers.

10.4 Wrecks and Derailments. Responsibility for the clearing of wrecks and re-railing of equipment and the costs of repair or renewal of damaged trackage or adjacent properties shall be borne by the party whose Equipment was wrecked, disabled, or derailed or caused such damage.

10.5 Rules. Except as otherwise provided in this Agreement, the North Line and the South Line shall be operated by both CIRY and PRY according to the General Code of Operating Rules, under "Yard Limit Rules". CIRY and PRY shall be responsible for training and applicable rules examinations for their respective employees and agents. All engineers used by CIRY and PRY shall be certified under F.R.A. regulations..

10.6 On-Going Issues. A Joint Service Committee ("Committee"), comprised of the chief transportation officers of CIRY and PRY (or their designees) and a designee of Peoria shall be established, and shall be responsible for establishing rules or standards as appropriate to ensure that this Agreement is complied with, that appropriate maintenance occurs, and that there is efficient use of the North Line and the South Line. The Committee shall meet when any party serves upon the other parties thirty (30) days' written notice of its desire to meet to review overall performance on the North Line or the South Line; conflicts, if any; grievances; maintenance of the North Line or the South Line; ways in which future conflicts may be minimized; ways of improving operations and maintenance of the North Line and the South Line; and such other relevant matters as the Committee may decide to consider. The Committee may issue, by unanimous consent, standards or rules governing the use of the North Line and the South Line. Informal telephonic conferences shall be held by the Committee where appropriate to address immediate concerns of either party. It is expected that the work on the Committee

shall be undertaken in a spirit of mutual cooperation consistent with the principles expressed in this Agreement.

10.7 Communications. CIRY and PRY shall consult with each other prior to the adoption of new communication (including radio frequencies) or signaling systems to be employed on the North Line or the South Line.

10.8 Non-Admittance. At no time shall any of the Parties allow any other railroad, rail carrier, or rail operator to use the North Line or the South Line, for any purpose, other than connecting rail carriers (currently UP and the Tazewell & Peoria) solely for interchange purposes. In the event that a request is made by the National Railroad Passenger Corporation ("Amtrak") to use any portion of the North Line, the Parties shall negotiate in good faith to permit such use.

10.9 North Line. The Parties acknowledge that, as of the date of this Agreement, Carver Lumber is the sole active customer on the North Line, and that Carver Lumber is the exclusive customer of PRY. Delay in the delivery of loaded Cars to the Carver Lumber (and any future on-line customers), over the North Line will have an adverse impact on such customer. Subject to Force Majeure provisions, if use of the North Line by PRY Trains serving Carver Lumber shall at any time be interrupted or delayed for any cause attributable to gross negligence or intentional acts of CIRY, including storage Cars in excess of the number agreed, or in inappropriate locations (as provided in Section 10.13), CIRY shall be liable for all costs and expenses resulting from said delay, to the extent attributable to such cause(s), including additional car hire and crew time to PRY.

10.10 UP Interchange. CIRY and PRY agree that, as to the UP interchange on the North Line, any disputes such as mis-delivery of Cars, car accounting, and the like will be settled between CIRY and PRY, and neither shall make any claim against UP.

10.11 Force Majeure. If either CIRY or PRY is unable to perform its obligations under this Agreement due to an event of Force Majeure, such event shall be communicated to the other Parties, and all Parties shall make reasonable efforts to mitigate such event. Force Majeure shall include extreme weather conditions, natural disasters, strikes and labor disputes, acts of war, terrorism, criminal acts of third parties, fuel shortages, acts of governmental entities, acts of other rail carriers, or any other condition beyond the reasonable control of the Party(ies) which prevents said Party(ies) from performing their obligations.

10.12 Car Storage. CIRY shall have the sole right to use the Western Connection for Car storage for off-line customers, provided however, that at no time shall interchange tracks or access to active customers be blocked or unreasonably impaired. PRY shall have no right to use the Western Connection for Car storage except with the prior written approval of CIRY, upon the terms and conditions contained therein. The Parties shall jointly agree on the number of Cars that can be stored on the North Line. CIRY shall not store hazardous materials loads, or TIH hazardous material residue cars, except with the prior written approval of the other Parties.

10.13 PRY as Storage Contractor. In order to make operations, and particularly,

interchange on the North Line more efficient, CIRY shall not maintain any motive power on the North Line. CIRY hereby contracts with PRY to provide motive power and crews to pick up its Car storage Cars from the UP interchange and place on unused track segments on the North Line. CIRY shall pay to PRY [REDACTED] of all revenues collected by CIRY for each Car picked up from interchange and placed in storage, and CIRY shall pay to PRY [REDACTED] of all revenues collected by CIRY for each Car released from storage and delivered to UP interchange, but in no event shall the pick-up fee paid to PRY be less than [REDACTED] per Car, or the delivery fee paid to PRY be less than [REDACTED] per Car, unless CIRY and PRY so agree in advance. In addition, PRY shall receive [REDACTED] of all storage fees collected by CIRY for car storage on the North Line, but in no event shall such storage fees paid to PRY be less than [REDACTED] per day for non-hazardous empties, or [REDACTED] per day for haz-mat empties, unless CIRY and PRY so agree in advance, Provided, however, that PRY shall accept [REDACTED] of all storage rates currently in place as of the date of this Agreement, for as long as one year. Such minimum rates (for both switching and storage) shall increase semi-annually, beginning January 1, 2010, based upon the Rail Cost Adjustment Factor published by the STB, or equivalent successor measurement of rail cost inflation. All Car storage Cars shall be interchanged to and from CIRY, by CIRY (via EDI), and all Car storage Cars shall, for all purposes, remain in the account of CIRY. CIRY shall notify PRY by e-mail or fax of the delivery of the Cars by UP, and the release of Cars from storage. CIRY shall be entitled to bill Car owners for switch fees and Car storage at such rate as it may determine, and CIRY shall receive all such fees. PRY's and its Affiliates' liability for storage Cars shall be limited to the actual loss, damage or destruction of any Car due to the gross negligence or intentional acts of PRY. In no event shall PRY or its Affiliates be liable for the loss, damage or destruction of any Car that is caused, in whole or in part, by act acts of nature or natural disaster (including, but not limited to, earthquakes, floods, tornados, storms, blizzards, hurricanes, etc.), vandalism, criminal or negligent acts of third parties, acts of terrorism, civil disturbances, war (declared or undeclared), or the acts or omissions of UP or any other rail carrier. CIRY may terminate this Section 10.13, upon thirty (30) days written notice to PRY and UP.

Section 11. BILLING

CIRY shall pay PRY for Car switching and storage services on the terms and conditions contained in Section 10.13, as follows:

- a. Upon receipt of a contract for Car storage, CIRY shall inform PRY of the material terms of the contract, including dates of interchange and storage, rates, and quantity of cars.
- b. Once PRY has either (i) picked up the Cars from the UP interchange and placed the Cars in storage, or (ii) released the Cars from storage and delivered them to the UP Interchange, PRY shall invoice CIRY for such Cars (the "PRY Invoice").
- c. After CIRY receives the PRY Invoice, CIRY shall invoice the contracting customer, and upon receipt of payment from the contracting customer, CIRY shall promptly remit payment to PRY for the PRY Invoice, but in any event shall remit payment to PRY within forty-five (45) days after receipt of the PRY Invoice.

Section 12. COMPLIANCE WITH LAWS

With respect to operation of Equipment on the North Line and the South Line, each party shall comply with all applicable federal, state and local laws, rules, regulations, orders, decisions and ordinances, and if any failure on the part of any party to so comply shall result in a fine, penalty, cost or charge being imposed or assessed on or against another party, such other party shall give prompt notice to the failing party and the failing party shall promptly reimburse and indemnify the other party for such fine, penalty, cost or charge and all expenses and reasonable attorneys' fees incurred in connection therewith, and shall upon request of the other party defend such action free of cost, charge and expense to the other party.

Section 13. LIABILITY

13.1 The provisions of this Section 13 shall apply as between the Parties hereto and their Affiliates. Nothing herein is intended to be for the benefit of any person or entity other than such Parties. It is the explicit intention of the Parties hereto that no person or entity other than such Parties is or shall be entitled to bring any action to enforce any provision hereof against any of the Parties hereto, and the assumptions, indemnities, covenants, undertakings and agreements set forth herein shall be solely for the benefit of, and shall be enforceable only by, such Parties hereto. Notwithstanding anything contained in this Section 13, no provision hereof shall be deemed to deprive any Party of the right to enforce or shall otherwise restrict any remedies to which they would otherwise be entitled under other provisions of this Agreement, including, without limitation, Section 12, as a result of the other Party's failure to perform or observe any other obligation or duty created by this Agreement.

13.2 The Parties agree that for the purposes of this Section 13 "Loss and/or Damage" shall mean injury to or death of any person, including Employees of the parties hereto, and loss or damage to any property, including property of the Parties hereto (and any Cars and lading in the accounts of the Parties), which arises out of an incident occurring on the North Line or the South Line, and shall include liability for any and all claims, suits, demands, judgments and damages resulting from or arising out of such injury, death, loss or damage, except liability for consequential, punitive and exemplary damages. Loss and/or Damage shall include all costs and expenses incidental to any claims, suits, demands and judgments, including attorneys' fees, court costs and other costs of investigation and litigation. Loss and/or Damage shall further include the expense of clearing wrecked or derailed Equipment and the costs of environmental protection, mitigation or clean up necessitated by such wreck or derailment and shall include any liabilities for any third-party claims for personal injury or death, property damage, natural resource damage, or any penalties, judgments or fines associated with a release of any contaminants resulting from such wreck or derailment.

13.3 Any Loss and/or Damage that involves only the Employees, Trains, and/or Equipment of only one Party (and third parties) shall be the sole responsibility of that Party. CIRY and PRY covenant and agree that they will pay for all Loss and/or Damage for which they are solely responsible, both as to persons and property, and will forever indemnify and save harmless the other Party, and its Affiliates, from and against all liability and claims therefor, or

by reason thereof, and will pay, satisfy and discharge all judgments that may be rendered by reason thereof, and all costs, charges and expenses incident thereto.

13.4 Any Loss and/or Damage that involves the Employees, Trains, and/or Equipment of more than one Party, shall be borne in proportion to the Parties' comparative fault. Each Party shall provide written or telephonic notice to the other party of any accidents or events resulting in such Loss and/or Damage within eight (8) hours of its discovery or receipt of notification of such occurrence. In the event both Parties hereto may be liable for any Loss and/or Damage under the provisions of this Section 13, the Parties shall conduct a joint investigation to determine the cause(s) of such incident. If the Parties are unable to agree on their respective liability, such matter shall be submitted to arbitration under Section 14.

13.5 If a claim is made or a suit is commenced against any Party hereto on account of Loss and/or Damage for which another Party hereto is or may be solely liable or Co-Liable under the provisions of this Section 13, the Party against whom such claim or suit is commenced shall give to such other Party prompt notice in writing of the pendency of such claim or suit, and thereupon such other Party shall assume or join in the defense of such claim or suit. The Parties shall cooperate in the defense of such suit.

13.6 No party hereto shall be conclusively bound by any judgments against the other Party, unless the former Party shall have had reasonable notice requiring or permitting it to investigate and defend and reasonable opportunity to make such defense. When such notice, and opportunity shall have been given, the Party so notified and the other Party shall be conclusively bound by the judgment as to all matters which could have been litigated in such suit, including without limitation a determination of the relative or comparative fault of each;

13.7 CIRY AND PRY EXPRESSLY INTEND THAT WHERE ONE PARTY IS TO INDEMNIFY THE OTHER PURSUANT TO THE TERMS OF THIS AGREEMENT, SUCH INDEMNITY SHALL NOT INCLUDE (1) INDEMNITY FOR THE SOLE NEGLIGENCE, WHETHER ACTIVE OR PASSIVE, OF THE INDEMNIFIED PARTY WHERE THAT NEGLIGENCE IS THE CAUSE OF THE LOSS OR DAMAGE; AND (2) INDEMNITY FOR STRICT LIABILITY OF THE INDEMNIFIED PARTY RESULTING FROM A VIOLATION OR ALLEGED VIOLATION OF ANY FEDERAL, STATE OR LOCAL LAW OR REGULATION BY THE INDEMNIFIED PARTY, INCLUDING BUT NOT LIMITED TO THE FEDERAL EMPLOYERS LIABILITY ACT ("FELA"), THE SAFETY APPLIANCE ACT, THE BOILER INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT ("OSHA"), THE RESOURCE CONSERVATION AND RECOVERY ACT ("RCRA"), THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT ("CERCLA"), THE CLEAN WATER ACT ("CWA"), THE OIL POLLUTION ACT ("OPA"), AND ANY SIMILAR STATE STATUTE IMPOSING OR IMPLEMENTING SIMILAR STANDARDS.

Section 14. ARBITRATION

14.1 If at any time a question or controversy shall arise between the Parties hereto in connection with this Agreement upon which the Parties cannot agree, then upon written request

of any party, setting forth the issue(s) in dispute, such question or controversy shall be submitted to arbitration. Unless other procedures are agreed to by the Parties, arbitration between the Parties pursuant to this Section 14 shall be governed by the rules and procedures set forth in this Section 14.

14.2 If the Parties to the dispute are able to agree upon a single competent and disinterested arbitrator within thirty (30) days after written request for Arbitration, then the issue(s) shall be submitted to that Arbitrator. If the Parties cannot agree on an Arbitrator, then any Party may apply to the STB for the appointment of an Arbitrator. The Arbitrator shall, with reasonable diligence, determine the questions as disclosed in said Request for Arbitration, shall give the parties reasonable notice of the time and place (of which the Arbitrator shall be the judge) of hearing evidence and argument, may take such evidence as the Arbitrator shall deem reasonable or as any party may submit with witnesses required to be sworn, and hear arguments of counsel or others.

14.3 After considering all evidence, testimony and arguments, said Arbitrator shall promptly state such decision or award and the reasoning for such decision or award in writing which shall be final, binding, and conclusive on all parties to the arbitration when delivered to them. The award rendered by the Arbitrator may be entered as a judgment in any court having jurisdiction thereof and enforced as between the parties without further evidentiary proceeding, the same as entered by the court at the conclusion of a judicial proceeding. Until the Arbitrator shall issue the first decision or award upon any question submitted for arbitration, performance under this Agreement shall continue in the manner and form existing prior to the rise of such question. After delivery of said first decision or award, each party shall forthwith comply with said first decision or award immediately after receiving it.

14.4 The Arbitrator shall have the authority to make an award of costs and attorney fees, as he may deem just. In the absence of an award by the Arbitrator, each Party to the arbitration shall pay all fees and expenses of its own witnesses, exhibits, and counsel. The compensation, cost, and expenses of the Arbitrator shall be paid in equal shares by all Parties to the arbitration.

14.5 The parties may obtain discovery and offer evidence in accordance with the Illinois Uniform Arbitration Act, as it may be amended from time to time.

Section 15. GOVERNMENTAL APPROVAL AND ABANDONMENT

15.1 CIRY and PRY shall initiate by appropriate application or petition and thereafter diligently prosecute proceedings for the procurement of all necessary consent, approval or authority from the STB for this Agreement and the operations to be conducted hereunder. Peoria, shall assist and support said application or petition and will furnish such information and execute, deliver, and file such instrument or instruments in writing as may be necessary or appropriate to obtain such government consent, approval, or authority. PRY and CIRY agree to cooperate fully to procure all such necessary consent, approval or authority.

15.2 Should any attempt be made, including by condemnation by public authority, to involuntarily dispossess CIRY and/or PRY of the right to operate upon and maintain any portion of the North Line or South Line, the Parties shall vigorously and in good faith oppose such attempt, and shall cooperate in good faith with and assist each other in such opposition.

15.3 CIRY shall not file any Petition with the STB to abandon or discontinue service over all or any part of the North Line unless after giving six (6) months' prior written notice to PRY of its intention so to do. In the event such notice is given, PRY shall have the exclusive right to purchase CIRY's interest in the North Line for said six-month period. If the CIRY and PRY cannot agree upon a price, the Parties shall petition the STB to set the price thereof, and PRY shall have ninety (90) days after the entry of such final determination by the STB to tender such amount to PRY. If PRY fails to tender such amount, CIRY shall be free to proceed with such abandonment filing.

Section 16. TERMINATION.

In the event of termination of this Agreement, no Party shall be released from any of the rights and obligations which may have accrued, or liabilities accrued or otherwise, which may have arisen prior to such termination. Upon any termination, PRY and CIRY may remove from Peoria's right of way any tracks, or other facilities that it has constructed with its own funds and labor.

Section 17. ASSIGNMENT

This Agreement may not be assigned, in whole or in part, by any party, except with the prior written consent of the other parties; provided, however, that the use of contractors to perform some of the functions of the parties hereto shall not construed to be an assignment, it being understood that the parties retain the obligations and, except to the extent provided in Section 13, remain liable to the other parties for the performance of their respective contractors.

Section 18. DEFAULT

18.1 Any Party hereto claiming default of any of the provisions of this Agreement shall furnish notice and written demand to the defaulting Party for performance or compliance with the covenant or condition of this Agreement claimed to be in default, which notice shall specify wherein and in what respect such default is claimed to exist and shall specify the particular section or sections of this Agreement under which such claim of default is made.

18.2 If the default shall continue for an additional period of thirty (30) days after receipt of such written notice and demand, and such default has not been remedied within said thirty (30) day period or such longer period, not to exceed ninety (90) days, as may be required provided that the defaulting party commences promptly and proceeds diligently to effect such a cure, the aggrieved Party(ies) may file an appropriate action before the STB, or may seek an

arbitration order under Section 14. If the defaulting Party fails to comply with the Order of the Arbitrator, the aggrieved Party(ies) may have such Order entered as an order for specific performance, by the STB, or by any Court having jurisdiction. The Parties stipulate that they have bargained for each of the provisions contained herein, and intend to give effect thereto, and that specific performance is an appropriate remedy.

Section 19. THIRD PARTIES; BINDING EFFECT

This Agreement is intended for the sole benefit of the Parties hereto and shall not be construed to create any rights in any third parties, except for those rights specifically provided herein for UP and Carver Lumber. This Agreement shall be binding upon and shall insure to the benefit of the Parties hereto and their respective successor and permitted assigns (if any).

Section 20. CONSTRUCTION

Any modification, waiver, or amendment to this Agreement must be in writing, and must be signed by the Parties to whom it applies. Singular terms when used herein shall mean and include the plural and vice versa, unless the context otherwise requires. When used herein, the term "including" shall be construed to mean, "including, but not limited to," whether or not such full phrase is used. No delay or failure to enforce any provision of this Agreement by any Party shall be construed to be a waiver thereof, or relieve any other Party of any obligation hereunder.

Section 21. SEVERABILITY

If any covenant or provision of this Agreement not material to the right of PRY to use the North Line shall be adjudged void, such adjudication shall not affect the validity, obligation or performance of any other covenant or provision which is in itself valid. No controversy concerning any covenant or provision shall delay the performance of any other covenant or provision. Should any covenant or provision of this Agreement be adjudged void, the parties shall make such other arrangements as will effect the purposes and intent of this Agreement.

Section 22. NOTICES

Any notice, demand, or request required or permitted to be given pursuant to this Agreement shall be in writing and shall be served by personal delivery, sent by a recognized national overnight courier service, or sent by certified mail, postage prepaid and return receipt requested, addressed as follows:

If to Peoria: _____

Facsimile: _____

If to CIRY: David Malay, President
Central Illinois Railroad Company
1861 Willowcreek Road
Portage, IN 46368
Telephone (per Section 22): (219) 746-0465
Facsimile: (219) 764-0530

With copy to: Toussaint & Carlson, Ltd.
2500 S. Highland Ave., Suite 360
Lombard, IL 60148
Attn: W. Roger Carlson, Esq.
Facsimile: (630) 928-0045

If to PRY: President
Pioneer Industrial Railway Co.
1318 S. Johanson Road
Peoria, Illinois 61607
Telephone (per Section 22): _____
Facsimile: _____

Or to such other addresses as the respective Parties may from time to time give notice. Notice shall be effective when received (if by personal delivery), one business day after dispatch (if by Courier), or two business days after mailing (if by mail).

Section 23. **WAIVER OF IMMUNITY**. Peoria hereby irrevocably and forever waives any claim of sovereign or governmental immunity as to this Agreement, and its obligations hereunder.

Section 24. **PART OF A SERIES OF AGREEMENTS**. This Agreement is part of a series of Agreements between Peoria, CIRY, PRY, and/or the Kellar Branch Corridor Corporation, and/or other third parties providing for the discontinuance of service over a portion of the Kellar Branch, and the continuation of service to all current customers of both PRY and CIRY, as well as the future needs and operation of the North Line and the South Line.

Section 25. **AUTHORITY**. The Party representatives executing this Agreement warrant that they are the duly authorized representatives of the respective entities designed below, and are fully empowered to execute this Agreement on behalf of the respective Parties.

Section 26. **GOVERNING LAW**. This Agreement shall be governed by the laws of the State of Illinois.

IN WITNESS WHEREOF, the parties hereto have executed this Rail Operating and Trackage Rights Agreement in duplicate the day and year first above written.

PIONEER INDUSTRIAL RAILWAY CO.

By: *A. Michael Guss*
Title: *President*
Date: *5-26-09*

CENTRAL ILLINOIS RAILROAD COMPANY

By: *[Signature]*
Title: *President*
Date: *5/21/09*

CITY OF PEORIA

By: _____
Title: _____
Date: _____

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 35341

**PIONEER INDUSTRIAL RAILWAY CO.
– TRACKAGE RIGHTS EXEMPTION –
CENTRAL ILLINOIS RAILWAY COMPANY**

**VERIFIED NOTICE OF EXEMPTION
PURSUANT TO 49 CFR 1180.2(d)(7)**

EXHIBIT 3

CAPTION SUMMARY

CAPTION SUMMARY

SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35341

PIONEER INDUSTRIAL RAILWAY CO. – TRACKAGE RIGHTS EXEMPTION – CENTRAL ILLINOIS RAILWAY COMPANY

Pursuant to a written agreement (Agreement), Central Illinois Railway Company (CIRY), has agreed to grant non-exclusive local trackage rights to Pioneer Industrial Railway Co. (PIRY) over approximately 4.81 miles of rail line in the City of Peoria, Peoria County, IL, as follows: (1) the Southern Segment of the Kellar Branch, between milepost 1.71 and milepost 2.78; (2) the Northern Segment of the Kellar Branch between milepost 8.50 and milepost 10.0; and (3) the Western Connection between milepost 71.5, to the end of track (a short distance west of University Avenue), and including the 1,800 foot connecting track linking the end of the Western Connection with the Northern Segment.

The parties anticipate consummating the subject transaction on or after January 28, 2010 (30 days after this Notice of Exemption has been filed). The purpose of the trackage rights agreement is to – (1) facilitate both PIRY's discontinuance of service over the middle portion of the Kellar Branch (between milepost 2.78 and milepost 8.50), and the possible conversion of that track segment to a recreational trail; (2) re-structure the relationships among PIRY, CIRY, and the City of Peoria, so that PIRY and the City of Peoria will no longer have a direct landlord-tenant relationship pursuant to a lease agreement; and (3) permit PIRY to continue to provide

common carrier service to shippers that are located on, and may in the future locate on, the Southern and Northern Segments of the Kellar Branch and on the Western Connection.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in Norfolk and Western Ry. Co.—Trackage Rights—BN, 354 I.C.C. 605 (1978), as modified in Mendocino Coast Ry., Inc.—Lease and Operate, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Stay petitions must be filed at least 7 days before the exemption becomes effective.

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110-161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing, or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting, and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35341, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on William A. Mullins, Baker & Miller PLLC, 2401 Pennsylvania Ave., N.W., Suite 300, Washington, DC 20037.

Dated:

By the Board.